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March 21, 2013

**CERTIFIED MAIL WITH RETURN RECEIPT**  
**HAND DELIVERY AND E-MAIL**

The Municipality of Guayama  
P.O. Box 360  
Guayama, PR 00785-0360

Hon. Eduardo Cintrón  
In his personal capacity and  
in his official capacity as  
Mayor of Guayama  
P.O. Box 360  
Guayama, PR 00785-0360

Glorimari Jaime Rodríguez  
In her personal capacity and  
in her official capacity as  
former Mayor of Guayama  
Urb. Palmar del Rey  
Calle # 14 Casa S-20  
Guayama P.R. 00784

Re: AES Puerto Rico, L.P.

Dear sir/madam:

On behalf of AES Puerto Rico, L.P. ("AES-PR") we hereby submit this formal notice to the Municipality of Guayama, Mayor Eduardo Cintron (in his official and personal capacities), and former Mayor Glorimari Jamie Rodriguez (in her official and personal capacities) of potential judicial claims with respect to the enactment of Municipal Ordinance Number 35, Series 2011-2012 of Guayama (the "Ordinance"), which illegally bans the beneficial use within Guayama of products that AES-PR produces from coal ash. The ordinance violates Puerto Rico and Federal Law, as well as the Constitutions of the Commonwealth of Puerto Rico and the United States. As a result, AES-PR is entitled to damages, injunctive relief, and attorneys fees under 28 U.S.C. §§ 2201 and 2202,



42 U.S.C. §§ 1331, 1983 and 1988, and the Constitution and laws of the Commonwealth of Puerto Rico, including but not limited to the constitutional and statutory provisions detailed below, the Autonomous Municipalities Act, 21 L.P.R.A. §4001 *et seq.* and Arts. 4 and 1802 of the Civil Code of Puerto Rico, 31 L.P.R.A. §§4 and 5141. Specifically, we request that AES-PR be paid a sum no less than \$2,500,000.00 as compensation for the increased costs, including but not limited to costs related to the handling of AES-PR's coal combustion products ("CCPs"), that have occurred and will continue to occur as a result of the Ordinance.

On March 28, 2012 the Municipal Legislature of Guayama approved the Ordinance. It was signed the next day by Mayor Glorimari Jamie Rodriguez on March 29, 2012 and was published on or after May 26, 2012. The Ordinance was thereafter amended by the Municipal Legislature of Guayama on July 19, 2012, and the amendment was signed by the Mayor on July 20, 2012, and was published on or after that date. *See*, Ordinance Number 8, Series 2012-2013 of Guayama. As amended, the Ordinance prohibits the use of any materials and products derived from coal ash within Guayama. Ordinance § 1 (attached as Exh. 1). The Ordinance also prohibits the disposal of any construction material, debris, or derivatives of coal ash in the Guayama municipal landfill. *Id.* § 2. The Ordinance further requires any company within Guayama that produces coal ash or any product derived from coal to use controls to limit the adverse impact on citizens and nearby municipalities according to unspecified Puerto Rico Environmental Quality Board ("EQB") and Environmental Protection Agency ("EPA") regulations. *Id.* § 3. Finally, the Ordinance imposes administrative and criminal penalties for violation of the Ordinance, including imprisonment of up to six months and a fine of up to \$5,000. *Id.* § 5.

AES-PR is harmed by the Ordinance because it operates a coal-fired power plant that is located in Guayama, which results in the production of coal ash and coal ash-derived products. AES-PR was invited by the government of Puerto Rico to build the power plant and invested more than \$800 million to develop and construct the 454.3 megawatt net coal-fired power plant and related facilities located in Guayama. Prior to construction, AES-PR obtained all of the necessary permits and approvals, including a Prevention of Significant Deterioration ("PSD") Permit that required installation of Best Available Control Technology ("BACT") and a Clean Air Act Title V Operating Permit that issued by the Puerto Rico EQB and approved by EPA. The AES-PR power plant started operation in November 2002 and satisfies, on average, more than 15 percent of Puerto Rico's total electric power needs. AES-PR imports coal from Colombia for use in the power plant because no coal is mined in Puerto Rico.

AES-PR supplies power to Puerto Rico under a 1994 contract between AES-PR and the Puerto Rico Electric Power Authority ("PREPA"), which was amended in 1999. Collectively, these agreements are the Power Purchase Agreement ("PPA"). PREPA is a public corporation in Puerto Rico and a government instrumentality of the Commonwealth of Puerto Rico. The PPA sets out the general commercial terms and conditions for developing and operating the AES-PR power plant, including the price PREPA agreed to pay for electricity generated by AES-PR. The PPA also specifically addressed the production of ash. In the course of producing electricity for PREPA, AES-PR produces approximately 200,000 to 250,000 tons of CCPs per year. The dry CCPs are collected in storage silos that are part of the AES-PR facility. PREPA agreed in the PPA that AES-PR could beneficially use the CCPs within Puerto Rico. When PREPA and AES-PR negotiated the price for electricity under the PPA, the parties understood that the price assumed that AES-PR would be authorized to use the CCPs for beneficial uses inside of Puerto Rico.

One of the CCPs produced by AES-PR at the AES-PR facility is a manufactured aggregate known as AGREMAX™. To produce AGREMAX™, the dry ash is mixed with water to create a

conditioned ash mixture which is compacted, cured, and stockpiled for beneficial use. AGREMAX™ is marketed and supplied for beneficial use as a subbase material for highways, road, parking lots, and as structural fill. In fact, the Municipality of Guayama contracted with AES-PR to use AGREMAX™ to improve rural dirt roads and provide rural residents with better access to government services such as police protection, medical services, and garbage collection. See Letter from R. Conde, Municipality of Guayama, to N. Watlington, AES-PR (Nov. 4, 2005) (attached as Exh. 2). Before contracting with AES-PR the Municipality of Guayama obtained an opinion from the Puerto Rico EQB confirming that AGREMAX™ could be used beneficially in Guayama. See Letter from J. Rodriguez, Puerto Rico EQB, to H. Colón, Municipality of Guayama (Sept. 20, 2005) (attached as Exh. 3). AGREMAX™ has previously been used within Guayama, and AES-PR had and, in the absence of the Ordinance, would expect that it would currently have contracts providing for the beneficial use of AGREMAX™ in Guayama.

The use of AGREMAX™ and other CCPs benefits Puerto Rico because using CCPs saves energy, conserves resources, and reduces impacts on the environment associated with mining, processing, and transporting the virgin sand and gravel that would be excavated from local quarries in Puerto Rico in the absence of CCPs such as AGREMAX™. AGREMAX™ and other CCPs also provide economic benefit for Puerto Rico development projects and Puerto Rican citizens because they are less expensive than alternative raw materials from Puerto Rico. In addition, the beneficial use of CCPs by AES-PR provides important benefits to the citizens of Puerto Rico because it facilitates the production of electricity from coal, a less expensive energy source than others in Puerto Rico.

The use of CCPs in Puerto Rico has repeatedly been reviewed and approved by the Puerto Rico government. In 1996, the Planning Board of Puerto Rico approved the proposal to locate the AES-PR facility in the Jobos ward of Guayama. Planning Board Resolution Third Extension to Location Approval (Consulta de Ubicacion) Number No. 94-71-1099-JPU (May 1, 1996) (unofficial translation) ("Planning Board Approval"). The Planning Board approval was subject to specific terms and conditions, including the requirement that coal ash at the AES-PR facility would "be converted to secondary and useful products, [including] ... use as substrate on roads, mineral filling on asphalt, structural filling, [or] daily cover for sanitary fillings ...." The Planning Board concluded that coal ash produced at the AES-PR facility "is an inert material and is not toxic ... [and] is not considered a hazardous material according to Subtitle C of Resource Conservation and Recovery Act." *Id.* § 4.6.7.1. The production and use of AGREMAX™ was therefore authorized and mandated by the Planning Board, and in fact, the Municipality of Guayama specifically endorsed the site consultation and Planning Board Approval.

During the Planning Board process, the Board directed the preparation of an Environmental Impact Statement (EIS) to assess the environmental impacts of siting a coal-fired power plant in Puerto Rico, including the production and use of CCPs. The Planning Board issued its approval based on the EIS and other information presented. The siting of the power plant also had to be approved and permitted by Puerto Rico EQB. As part of that process, EQB reviewed and approved the EIS, finding it satisfied the requirements to assess fully the environmental impacts of the proposed plant, and determined, that the AES-PR facility would produce useful products, including a manufactured aggregate and other CCPs, that would not be subject to regulation as solid or hazardous waste. EQB Resolution, *In re AES Puerto Rico, L.P. Barrio Jobos Guayama, Puerto Rico*, No. R-96-39-1 (Oct. 31, 1996). Opponents of the facility appealed the EQB decision, but the

Puerto Rico Supreme Court rejected concerns regarding the use of CCPs and affirmed EQB's decision to approve the beneficial use of CCPs in Puerto Rico.<sup>1</sup>

Subsequently, in 2000, the Puerto Rico EQB reaffirmed its determination, again concluding that the manufacture of AGREMAX™ produced a useful material, not a solid or hazardous waste. EQB Resolution R-00-14-2 (May 3, 2000). In 2005, an independent laboratory hired by the Puerto Rico EQB analyzed samples of AES-PR's AGREMAX™ and concluded that it is neither toxic nor hazardous. The Puerto Rico EQB then reaffirmed its prior conclusions that AGREMAX™ is a useful product, not a hazardous waste. EQB Resolution, *In re BFI of Ponce Inc.*, No. R-05-14-11 (May 3, 2005).

In addition, in 2006-2007, the Southern Commission for Economic Development of the Puerto Rico House of Representatives conducted an in-depth examination of AGREMAX™ and other CCPs produced by AES-PR.<sup>2</sup> As part of the examination, an independent laboratory reviewed reports on the chemical analysis of AGREMAX™ and other CCPs produced by AES-PR. In 2007 the House of Representatives adopted a resolution concluding that AGREMAX™ and other CCPs produced by AES-PR are not toxic or hazardous to humans or the environment.

Testing done on AGREMAX™ and other CCPs produced by AES-PR demonstrate that the materials are not hazardous and can be safely and beneficially used in Guayama. In 2010 the Puerto Rico Department of Transportation ("DOT") and Federal Highway Administration conducted laboratory testing to assess the engineering properties of AGREMAX™ and, after reviewing the results, expressed interest in using AGREMAX™ as a subbase for road construction. See Letter from H. Cortes Laclaustra, PR DOT, to AES-PR (Oct. 22, 2010). The results of these tests were presented by AES-PR to the Municipal Legislature of Guayama at a November 17, 2010 hearing; no contrary test results were presented. In 2011, an engineering expert reviewed actual applications of AGREMAX™ as a road subbase material in Puerto Rico, collected field data, and performed standard engineering tests and calculations to examine the effectiveness of the material, and found the projects to be performing extremely well after several years of service. See R. Carrasquillo to R. Rivera, Re: Testing and Condition Assessment Results Projects with Agremax Subbase AES Puerto Rico Guayama, Puerto Rico (January 7, 2011). Further, AES-PR engaged an independent laboratory to evaluate data regarding the constituents in AES-PR's CCPs. This analysis, submitted to the Puerto Rico EQB in 2011, likewise confirms that the materials pose no significant risks. Letter from A. Dyer, AES-PR, to P.J. Nieves Miranda, Puerto Rico EQB (Mar. 25, 2011).

Based on the foregoing, AES-PR has grounds to raise the following claims against the Municipality of Guayama and its officials:

1. Violation of the Commerce Clause of the United States Constitution. The Ordinance violates the Commerce Clause by discriminating against products derived from coal imported into Puerto Rico by prohibiting the use of AGREMAX™ and other CCPs in Guayama. The ordinance treats products derived from imported coal less favorably than comparable products derived from materials native to Puerto Rico, such as native aggregate and similar materials, creating a competitive disadvantage for AES-PR and its CCPs. The Ordinance imposes substantial burdens on AES-PR in their conduct of interstate and foreign commerce that are not

<sup>1</sup> See *Mision Industrial de P.R. Inc. v. Junta de Calidad Ambiental de P.R.*, 145 D.P.R. 908, 914 (1998).

<sup>2</sup> Copy available at <http://www.agremax.com/Downloads/Tab%208%20->

justified by any valid public welfare, consumer protection, or pro-competitive purpose unrelated to economic protectionism.

2. Violation of the Commerce Clause of the United States Constitution. The Ordinance violates the Commerce Clause by imposing unreasonable burdens on AES-PR's conduct of interstate and foreign commerce by increasing the costs associated with the production of electric power from imported coal at the AES-PR facility, and by banning the legitimate and beneficial use of CCPs, including AGREMAX™. These burdens exceed any purported local benefit because there is no legitimate basis for concluding that the beneficial use of AGREMAX™ and other CCPs produced by AES-PR would harm human health or the environment. Further, the ordinance, by requiring the users of the AES-PR facility's CCPs to instead procure alternatives for subbase material for highways, road, parking lots, and as structural fill that will increase those users' costs, and compel the use of virgin native materials instead of CCPs that are beneficial byproducts of the AES-PR facility.
3. Violation of the Takings Clauses of the United States Constitution and the Constitution of the Commonwealth of Puerto Rico. The Ordinance effects a regulatory taking under Fifth Amendment of the United States Constitution and Article II, Section 9 of the Constitution of the Commonwealth of Puerto Rico because it denies AES-PR all economically beneficial use of AGREMAX™ and other CCPs produced at the AES-PR facility in Guayama by banning the use of those products in Guayama and mandating that they be exported outside of Guayama. AES-PR entered into the PPA with PREPA, received approval from the Planning Board, and invested hundreds of millions of dollars in the AES-PR facility in Guayama based on the expectation that it would be able to make beneficial use of CCPs, including to produce a manufactured aggregate for beneficial use. AES-PR has also entered into contracts and made commitments to provide AGREMAX™ for beneficial use, including with the Municipality of Guayama. The Ordinance takes those investment-backed expectations away, as AES-PR and its customers cannot make beneficial use of CCPs, including AGREMAX™, in Guayama. AES-PR has a property interest in the use of AGREMAX™ in Puerto Rico, particularly in Guayama, where the plant is located, and the Ordinance deprives AES-PR of its property interest without just compensation.
4. Violation of the Contracts Clauses of the United States Constitution and the Constitution of the Commonwealth of Puerto Rico. The Ordinance violates Article I, Section 10, Clause 1 of the United States Constitution and Article II, Section 7 of the Constitution of the Commonwealth of Puerto Rico because it substantially impairs AES-PR's contracts by prohibiting the beneficial use of AGREMAX™ and other CCPs in Guayama. AES-PR contracted with PREPA and invested in the AES-PR facility based on its contractual right to beneficially use CCPs in Puerto Rico, as authorized by the PPA. AES-PR also has pending contracts with customers in Guayama to provide AGREMAX™ for beneficial use. The Ordinance's impairment of these contracts is neither reasonable nor necessary to serve any important governmental goal because the use of AGREMAX™ and other CCPs does not present any significant risk to human health or the environment or otherwise present a general social or economic problem.
5. Violation of the Supremacy Clause of the United States Constitution. The Ordinance violates Article VI, Clause 2 of the United States Constitution because it conflicts with Congress' objectives in empowering EPA to regulate solid and hazardous waste under the Resource Conservation and Recovery Act ("RCRA"). RCRA provides for "cradle-to-grave" management of hazardous wastes and also establishes a framework for solid waste disposal. One of Congress' policy objectives in enacting RCRA was to reduce the disposal of solid waste by

RCRA, Congress excluded from regulation certain materials generated by the combustion of coal, including ash, subject to EPA's further study. 42 U.S.C. § 6902(b)(3)(A)(i). EPA's subsequent study concluded that the beneficial use of CCPs, including in roads and construction fill, provided a means to reduce the amount of material that needed to be disposed of as a waste. *Report to Congress: Wastes From the Combustion of Coal by Electric Utility Power Plants* (U.S. EPA, March 8, 1988). EPA also determined that CCPs should not be regulated as a hazardous waste, but should instead remain unregulated, a finding EPA has repeatedly affirmed. 58 Fed. Reg. 42466 (Aug. 9, 1993); 65 Fed. Reg. 32214 (May 22, 2000); 75 Fed. Reg. 35128 (June 21, 2010). The Ordinance therefore conflicts with and stands as an obstacle to the purposes and goals of RCRA by attempting to ban all beneficial uses of CCPs in Guayama, contrary to the express policies in RCRA of encouraging resource conservation, and the long-standing determinations by EPA that beneficial uses of CCP should be allowed and encouraged.

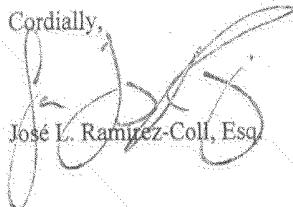
6. Violation of the Due Process Clauses of the United States Constitution and the Constitution of the Commonwealth of Puerto Rico. The Ordinance violates the Fourteenth Amendment of the United States Constitution and Article II, Section 7 of the Constitution of the Commonwealth of Puerto Rico because it deprives AES-PR of its liberty or property without due process of law. AES has a property interest in the beneficial use of CCPs, including AGREMAX™ in Puerto Rico, as provided by the Planning Board, PREPA, and the Puerto Rico EQB. The Ordinance provides that any business that procures CCPs within the boundaries of the Municipality of Guayama must use the engineering or environmental controls necessary to limit the adverse impact of its operations on the citizens and neighboring municipalities. For violators of the Ordinance, the Ordinance sets a criminal penalty of up to six months in jail or a fine of not less than \$5,000 or both, at the discretion of the court. By imposing a criminal penalty for violations, the Ordinance is void for vagueness as it does not define with any specificity what controls must be used, but instead only vaguely refers to unspecified EQB or EPA regulations.
7. Violation of Puerto Rico's Autonomous Municipalities Act. The Ordinance violates Puerto Rico's Autonomous Municipalities Act, P.R. Laws Ann. tit. 21, subtit. 6, ch. 201, by authorizing administrative penalties without adopting a uniform procedure containing due process of law guarantees similar to those established in the Uniform Administrative Procedures Act of Puerto Rico, *id.* tit. 3, ch. 75. The Ordinance imposes penalties of up to six months in jail and a fine of up to \$5,000, at the discretion of the court, but does not specify whether the penalties are administrative or criminal in nature. To the extent that the penalties are administrative, they fail to provide the necessary due process guarantees of the Uniform Administrative Procedures Act of Puerto Rico. To the extent that the penalties are criminal, they are arbitrary and capricious because they are not authorized by the Autonomous Municipalities Act, 21 P.R. Laws Ann. § 4053, and are disproportionate to the type of conduct prohibited by the Ordinance.
8. The Ordinance is Void and *Ultra Vires* Under Puerto Rico Law. The Ordinance is void and *ultra vires* under the Autonomous Municipalities Act because the Municipality of Guayama cannot modify the permit conditions imposed on AES-PR by the Planning Board. The Planning Board's approval of Site Consultation No. 94-71-1099-JPU and the location of the AES-PR facility in Guayama was subject to the beneficial use of CCPs, including AGREMAX™. The Ordinance, which attempts to regulate the beneficial use of CCPs including AGREMAX™ within the territorial boundaries of Guayama, is null and void for lack of jurisdiction and *ultra vires* as it conflicts with the mandate of the Planning Board.
9. The Ordinance is Preempted by Puerto Rico Law. The Ordinance is unenforceable because it conflicts with, and is preempted by, the Enabling Act of Puerto Rico's Environmental Quality

Board, which authorized the Puerto Rico EQB to regulate the disposition of solid wastes and to fix the sites and methods for the disposition of solid wastes. 12 P.R. Laws Ann. § 8002c(b)(4)(A). The Puerto Rico EQB has approved CCPs, including AGREMAX™ for beneficial use in Puerto Rico, including in Guayama, and has declared that the beneficial use of CCPs, including AGREMAX™ is not the disposal of solid waste. The Ordinance conflicts with Puerto Rico's environmental policy by banning all beneficial uses of CCPs within Guayama, despite the Puerto Rico EQB's approval of the beneficial use of AES-PR's CCPs in Puerto Rico. The Ordinance also conflicts with the EQB's authority and conclusions regarding CCPs by making a determination that AGREMAX™ and other CCPs are toxic waste materials.

We submit this letter and extrajudicial claim to notify you of AES-PR's intent to sue for the aforementioned damages and injunctive relief, to the extent the Ordinance is not repealed and AES-PR is not compensated for the damages suffered, and to toll against you the applicable statute of limitations under federal or Puerto Rico law, including but not limited to the statute of limitations provided for in Art. 1868 of the Civil Code of Puerto Rico, 31 L.P.R.A. §5298.

With nothing further, I remain

Cordially,

  
José L. Ramirez-Coll, Esq.

C: Luis Sánchez Betances, Esq.  
Secretary of Justice of the  
Commonwealth of Puerto Rico  
Department of Justice  
P.O. Box 9020192  
San Juan, PR 00902-0192

Amaris Coya, Esq.  
Director, Office of Legal Affairs  
Municipality of Guayama  
[acoya@municipiodeguyamapr.com](mailto:acoya@municipiodeguyamapr.com)



ESTADO LIBRE ASOCIADO DE PUERTO RICO  
GOBIERNO MUNICIPAL  
MUNICIPIO AUTONOMO DE GUAYAMA, PUERTO RICO

ORDENANZA NUM. 35

SERIE 2011 – 2012

**PARA PROHIBIR EL USO DE CENIZAS PROCEDENTES DE LA QUEMA DE CARBON COMO MATERIAL DE RELLENO Y CONSTRUCCION Y REGULAR SU TRANSPORTE DENTRO DE LOS LIMITES TERRITORIALES DEL MUNICIPIO.**

**POR CUANTO**

Anualmente se queman 1.05 billones de toneladas de carbón en los Estados Unidos, que contienen arsénico, berilio, cadmio, cromo níquel y selenio. Esto significa que las aproximadas 500 plantas de energía, derivadas del carbón, producen unas 120 millones de desperdicios tóxicos.

**POR CUANTO**

Una planta de carbón que opera por uso 40 años dejará unas 9.6 millones de desperdicios tóxicos.

**POR CUANTO**

Que estos desperdicios de combustión de carbón, constituyen la segunda fuente de desechos, después de los desperdicios sólidos municipales.

**POR CUANTO**

La producción de cenizas de carbón fugitivas, ha ido en aumento desde el 2006, produciéndose más de 72 millones de toneladas anuales, un aumento de más de 50% desde el 1993.

**POR CUANTO**

Este aumento de cenizas ha contribuido a la creación de nuevos usos o alternativas de disposición de las mismas.

**POR CUANTO**

Estos desperdicios se están depositando en áreas de relleno o en superficies como productos alternos del carbón, mientras el agua filtra hacia los abastos subterráneos o acuíferos, los metales tóxicos bajan a los mismos.

**POR CUANTO**

A pesar que las cenizas de carbón se han utilizado como material de relleno y construcción de carreteras por algún tiempo, la Agencia de Protección Ambiental (EPA) ha propuesto una regla para la regulación de los residuos de la combustión de carbón, incluyendo los considerados como "usos beneficiosos". La EPA argumenta que en las situaciones donde se han utilizado grandes cantidades de estos residuos indiscriminadamente como relleno no encapsulado, la EPA no considera esto como un uso "beneficioso", sino como un manejo de desperdicio, considerando estas prácticas como unas de "preocupación ambiental".

**POR CUANTO**

La EPA, en inspecciones en el Municipio, donde se han utilizado productos derivados como el Agremax, ha encontrado el mismo en áreas residenciales y cerca a los acuíferos. Además, dicha inspección ha concluido que el uso del mismo fue realizado más como un medio de "disponer" del mismo en cantidades que exceden las necesarias para su uso como material de construcción.

POR CUANTO	Por otro lado, se encontraron áreas que han sido abandonadas, que fueron rellenas pero que cuya construcción no se había iniciado y otros utilizados para la disposición ilegal de materiales de desperdicios.
POR CUANTO	La EPA ha reconocido 7 casos de daños probados con el depósito excesivo de estos desperdicios de carbón. Todo esto bajo la clasificación de un "uso beneficioso". Por lo tanto, la regla propuesta por la EPA elimina la categorización de estos como "beneficiosos".\n
POR CUANTO	La EPA tiene la intención de investigar el potencial daño ambiental o a la salud de los habitantes de la costa sureste, evaluando la aplicabilidad potencial de la Sección 7003 del "Resource Conservation and Recovery Act".
Por Cuanto	Ante la localización de una planta de carbón dentro de los límites territoriales de Guayama, se hace imperioso el tomar las medidas necesarias para salvaguardar la salud, seguridad y bienestar de nuestros ciudadanos. El Municipio reconoce la necesidad de solicitar controles para la transportación y uso de estos derivados, considerados como un riesgo a la salud de los ciudadanos aledaños a la misma.
POR TANTO	<b>ORDENESE POR LA LEGISLATURA MUNICIPAL DE GUAYAMA LO SIGUIENTE:</b>
Sección 1ra	Se prohíbe el uso de productos derivados de la quema de carbón, dentro de sus límites territoriales o la utilización de este como relleno en ningún proyecto comercial, residencial o municipal.
Sección 2da	Se prohíbe la disposición de cualquier material de construcción, escombros o derivados de las cenizas de carbón, en el vertedero municipal. Toda persona, natural o jurídica, que deposite estos desperdicios a base de cenizas derivadas del carbón, las removerá y dispondrá a su costo, fuera de los límites territoriales de Guayama.
Sección 3ra	Toda empresa que dentro de los límites territoriales de Guayama, produzca cenizas y/o cualquier producto derivado del carbón, deberá de utilizar los controles de ingeniería o ambientales para limitar el impacto adverso sobre la ciudadanía y municipios limítrofes. Esto se hará de acuerdo a las reglamentaciones vigentes de la Junta de Calidad Ambiental del Gobierno de Puerto Rico y de las de la Agencia Federal de Protección Ambiental.
Sección 4ta.	Que el transporte de estas cenizas, o cualquiera de sus derivados, se efectuará en contenedores cerrados, como medida de prevención de posible liberación de cenizas de carbón, mientras estén depositadas o en tránsito por los límites territoriales.
Sección 5ta	Toda persona que viole cualquier disposición de esta ordenanza, estará sujeta a una multa no menor de cinco mil dólares (\$5,000.00), y/o seis meses de cárcel o ambas, a discreción del Tribunal.

## Sección 6ta.

Esta Ordenanza empezará a regir tan pronto sea aprobada por este cuerpo legislativo, firmado por la Alcaldesa y se haya cumplido con el trámite de publicación y notificación a los medios.

DADA EN GUAYAMA, PUERTO RICO, HOY 28 DE MARZO  
DE 2012. APROBADO POR LA HONORABLE GLORIMARI  
JAIME RODRÍGUEZ, ALCALDESA, HOY 29 DE MARZO DE  
2012.

H.F.G.  
Hon. Héctor M. Torres Cintrón  
Presidente Legislatura Municipal

Nilda Manautou Torres  
Sra. Nilda M. Manautou Torres  
Secretaria Legislatura Municipal

Glorimari Jaime Rodriguez  
Hon. Glorimari Jaime Rodriguez  
Alcaldesa

Sometida por:  
Comisión de Salud y Calidad Ambiental



ESTADO LIBRE ASOCIADO DE PUERTO RICO  
GOBIERNO MUNICIPAL  
MUNICIPIO AUTÓNOMO DE GUAYAMA, PUERTO RICO

CERTIFICAMOS, que lo que antecede es el Proyecto de ORDENANZA NÚMERO 35, SERIE 2011-2012, adoptado por la honorable Legislatura Municipal de Guayama, Puerto Rico, en la SESIÓN ORDINARIA celebrada el dia 28 DE MARZO DE 2012.

PARA PROHIBIR EL USO DE CENIZAS PROCEDENTES DE LA QUEMA DE CARBON COMO MATERIAL DE RELLENO Y CONSTRUCCION Y REGULAR SU TRANSPORTE DENTRO DE LOS LÍMITES TERRITORIALES DEL MUNICIPIO.

CERTIFICAMOS ADEMÁS, que dicha ORDENANZA NÚMERO 35 fue aprobada con los votos afirmativos de los siguientes legisladores presentes en dicha sesión:

HÉCTOR M. TORRES CINTRÓN  
GABRIEL J. ROMÁN BRIGANTTI  
NEFTALÍ ORTIZ ORTIZ  
ASTRID E. VALENTÍN BÁEZ  
FERNANDO ZAYAS FERNÁNDEZ  
REY CATALINO RAMÍREZ ROSARIO  
ANGEL L. SANABRIA MORALES  
ISIS N. DE JESÚS ALICEA

HILDA I. SÁEZ MORALES  
EVELYN DÍAZ SUÁREZ  
RAFAEL ESPÉNDIZ NAVARRO  
JEFFREY QUIÑONES GONZÁLEZ  
PABLO VALENTÍN DÍAZ  
EDICIO LÓPEZ LEBRÓN  
FRANCISCO A. CINTRÓN BOU

EXCUSADOS

NADIE

AUSENTES

NYRMA E. JORDÁN RAMOS

ABSTENIDOS

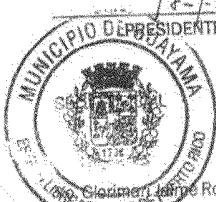
NADIE

EN CONTRA

NADIE

EN TESTIMONIO DE LO CUAL, y para ser sometida a la honorable Alcaldesa de Guayama, Puerto Rico, para su aprobación y promulgación hoy dia 28 DE MARZO DE 2012 bajo nuestras firmas y sello oficial de este municipio.

Hilda I. Sáez Morales  
SECRETARIA ADMINISTRATIVA



Yo, Clemente Jaime Rodríguez, Alcaldesa del Municipio Autónomo de Guayama, Puerto Rico, por el Poder que me confieren las leyes del Estado Libre Asociado de Puerto Rico, imparto mi aprobación a la presente ORDENANZA NÚMERO 35, hoy dia 29 DE MARZO DE 2012.

Clemente Jaime Rodríguez  
ALCALDESA



ESTADO LIBRE ASOCIADO DE PUERTO RICO  
GOBIERNO MUNICIPAL  
MUNICIPIO AUTÓNOMO DE GUAYAMA, PUERTO RICO

ORDENANZA NÚMERO: 8

SERIE 2012-2013

PARA ENMENDAR LAS SECCIÓN 4TA DE LA ORDENANZA NÚMERO 35, SERIE 2011-2012,  
DISPONIENDO QUE LA TRASPORTACIÓN SE REALIZARA CONFORME LO ESTABLECE LA LEY  
DE VEHICULOS Y TRANSITO, LEY NÚMERO 22 DE 7 DE ENERO DE 2000, SEGUN  
ENMENDADA; Y PARA OTROS FINES.

**POR CUANTO:** Mediante la Ordenanza Número 35, Serie 2011-2012, el Municipio de Guayama comprometido con la salud de nuestros ciudadanos prohibió el uso de productos derivados de la quema de carbón, dentro de sus límites territoriales o la utilización de este como relleno en ningún proyecto comercial, residencial o municipal.

**POR CUANTO:** En ánimo de dar fiel cumplimiento a los estatutos y disposiciones vigentes se enmiendan la Sección Cuarta de la Ordenanza Número 35, Serie 2011-2012.

**POR TANTO:** ORDÉNESE POR ESTA HONORABLE LEGISLATURA MUNICIPAL DE GUAYAMA, DEL GOBIERNO DE PUERTO RICO, LO SIGUIENTE:

**SECCIÓN 1RA:** Se enmienda la Sección 4ta, para que lea como sigue:

Que el transporte de estas cenizas, o cualquiera de sus derivados será según lo dispone el Artículo 15.02 de la Ley de Vehículos y Transito, Ley Número 22 de 7 de enero de 2000, según enmendada.

**SECCIÓN 2DA:** Esta Ordenanza comenzará a regir inmediatamente sea aprobada por la Legislatura Municipal y firmada por la Honorable Alcaldesa.

DADA EN GUAYAMA, PUERTO RICO, HOY DÍA 19 DE JULIO DE 2012. APROBADA POR LA HONORABLE GLORIMARI JAIME RODRÍGUEZ, ALCALDESA, HOY DÍA 20 DE JULIO DE 2012.

HON. HÉCTOR M. TORRES CINTRÓN  
Presidente Legislatura Municipal

SRA. NILDA M. MANAUTOU TORRES  
Secretaria Legislatura Municipal

Glorimari Jaime Rodríguez  
HON. GLORIMARI JAIME RODRÍGUEZ  
Alcaldesa



ESTADO LIBRE ASOCIADO DE PUERTO RICO  
GOBIERNO MUNICIPAL  
MUNICIPIO AUTÓNOMO DE GUAYAMA, PUERTO RICO

CERTIFICAMOS, que lo que antecede es el Proyecto de ORDENANZA NÚMERO 8, SERIE 2012-2013, adoptado por la honorable Legislatura Municipal de Guayama, Puerto Rico, en la SESIÓN ORDINARIA celebrada el dia 19 DE JULIO DE 2012.

PARA ENMENDAR LAS SECCIÓN 4TA DE LA ORDENANZA NÚMERO 35, SERIE 2011-2012, DISPONIENDO QUE LA TRASPORTACIÓN SE REALIZARA CONFORME LO ESTABLECE LA LEY DE VEHICULOS Y TRANSITO, LEY NÚMERO 22 DE 7 DE ENERO DE 2000, SEGUN ENMENDADA Y PARA OTROS FINES.

CERTIFICAMOS ADEMÁS, que dicha ORDENANZA NÚMERO 8, fue aprobada con los votos afirmativos de los siguientes legisladores presentes en dicha sesión:

HÉCTOR M. TORRES CINTRÓN  
ASTRID E. VALENTÍN BÁEZ  
PABLO VALENTÍN DÍAZ  
ANGEL L. SANABRIA MORALES  
ISIDRO N. DE JESÚS ALICEA

EXCUSADOS

NADIE

HILDA I. SÁEZ MORALES  
FRANCISCO A. CINTRÓN BOU  
JEFFREY QUIÑONES GONZÁLEZ  
FERNANDO ZAYAS FERNÁNDEZ  
REY CATALINO RAMÍREZ ROSARIO

AUSENTES

EDICTO LÓPEZ LEBRÓN  
EVELYN DÍAZ SUÁREZ  
NYRMA E. JORDÁN RAMOS  
GABRIEL J. ROMÁN BRIGANTTI  
NEFTALÍ ORTIZ ORTIZ  
RAFAEL ESPÉNDEZ NAVARRO

ABSTENIDOS

NADIE

EN CONTRA

NADIE

EN TESTIMONIO DE LO CUAL, y para ser sometida a la honorable Alcaldesa de Guayama, Puerto Rico, para su aprobación y promulgación hoy día 19 DE JULIO DE 2012 bajo nuestras firmas y sello oficial de este municipio.

PRESIDENTE

SECRETARIA ADMINISTRATIVA

SELLO OFICIAL

Yo, Glorimari Jaime Rodríguez, Alcaldesa del Municipio Autónomo de Guayama, Puerto Rico, por las facultades que me confieren las leyes del Estado Libre Asociado de Puerto Rico, imparto mi aprobación a la presente ORDENANZA NÚMERO 8, hoy día 20 DE JULIO DE 2012.

GLORIMARI JAIME RODRÍGUEZ  
ALCALDESA

NOV-04-2005 FRI 10:18 AM

P. 01



ESTADO LIBRE ASOCIADO DE PUERTO RICO  
Gobierno Municipal de Guayama

Apartado 360 • Guayama, Puerto Rico 00765  
Teléfono: (787) 864-0600 Exts. 2228 - 2229

Hon. Héctor L. Colón Mendoza.  
Alcalde

Departamento de Obras Públicas y Ambiente

EXHIBIT 2

[Redacted]  
Sr. Carlos D. Vicente Colón  
Director

Sr. Neil Watlington  
Vice-Presidente Desarrollo  
AES P.R.  
P.O. Box 1890  
Guayama, P.R. 00785

Estimado Sr. Watlington:

Primeramente mi mas sincero saludo. Aprovecho para solicitarle que dentro de la programación para las mejoras de caminos vecinales pueda incluirse también un camino que ubica en el Barrio Carite Sector Las Villas cerca del área del Lago de Carite. Agradeceré toda su atención para estos residentes y nos reiteramos a su disposición.

Sin otro asunto al cual referirme quedo de usted;

Muy cordialmente.

Ramón Conde Meléndez  
Ofic. Del Alcalde  
Municipio de Guayama

levg

REC'D BY 10/15  
P.C. 10/15/05

4 de noviembre de 2005

Estimado Sr. Neil Watlington:

Soy residente del Bo. Carite en la carretera 742 final. Las condiciones de la carretera que da acceso a nuestra casa y la de los vecinos se encuentra sumamente deteriorada.

Buscando alternativas me refirieron a usted recomendando la utilización del agregado de su Co. para mejorar la carretera y así poder trasitar.

El tramo de la carretera comienza en la 742 dentro del área residencial de las villas de Carite y es de aprox. 4 millas de largo.

Anejo la carta de endoso del Municipio de Guayama por el Sr. Ramon Conde, ayudante especial del Alcalde.

De requerir alguna información adicional favor de comunicarse conmigo a los teléfonos (787) 617-4602 (787) 616-4602 .

Le solicito respetuosamente su colaboración para lograr nuestra gestión para la comunidad que pertenecemos.

Atentamente,

  
Julio L. Borras  
Bo. Carite  
Carr. 742 final  
G-3  
Guayama, PR

(camino hacia la represa)

EXHIBIT 3

FROM : FARMACIA GARROD \*\*\*  
Sep. 21, 2005 10:31AM

FAX NO. : 787-8248998

Sep. 22 2005 08:58AM P2

Nº9701 P. 2



ESTADO LIBRE ASOCIADO DE PUERTO RICO  
Oficina del Gobernador  
Junta de Calidad Ambiental  
*35 Años de Gestión Ambiental*

Área de Control de Contaminación de Terrenos

20 de septiembre de 2005

Hon. Héctor Luis Colón Mendoza  
Alcalde  
Municipio de Guayama  
Apartado 360  
Guayama, Puerto Rico 00785

Estimado señor Alcalde:

Hacemos referencia a su comunicación del 31 de agosto de 2005, en donde nos indica que utilizaran las cenizas y el agregado manufacturado producido por AES para arreglar una serie de caminos vecinales en distintos sectores del Municipio de Guayama.

Las Resoluciones R-96-9-1 y R-00-14-2 de la Junta de Gobierno de la Junta de Calidad Ambiental, fechadas el 29 de octubre de 1996 y 23 de abril de 2000, respectivamente, establecen que el procedimiento al que AES somete las cenizas que genera su facilidad en Guayama para producir agregados manufacturados, está exento del requisito de permiso para operar una instalación de desperdicios sólidos. Este material procesado no entra en el flujo de los desperdicios sólidos que son dispuestos o abandonados, por lo cual, no se considera un desperdicio sólido.

Cabe señalar que se han tomado muestras del agregado manufacturado, y los resultados reflejan que el material no exhibe características de peligrosidad.

En cuanto a las cualidades y características comerciales del agregado manufacturado o de las cenizas, es importante mencionar que la Junta de Calidad Ambiental no puede regular los diferentes usos que se le quieran dar a este material. La determinación sobre como utilizar un producto corresponde al

Nacional Plaza, Ave. Ponce de León #431, Hato Rey, PR 00916 Tel. 787-767-8181 • Fax 787-767-8118  
Apartado 11488, San Juan, PR 00910

FROM :FARMACIA GARROD \*\*\*  
Sep. 21, 2005 16:31AM

FAX NO. :787 8248998

Sep. 22 2005 08:51AM P3

H29701 P. 3

Página 2  
20 de septiembre de 2005  
Agregado Manufacturado

usuario del mismo, ya que es una materia prima, y no un desperdicio sólido que estaría regulado por nuestra reglamentación.

Esperamos que esta información haya podido aclarar sus interrogantes. De tener cualquier duda sobre el particular, favor de comunicarse a nuestras oficinas al (787) 767-8181 ext. 2800.

Cordialmente,

*Julio I. Rodríguez Colón*  
Julio Iván Rodríguez Colón  
Gerente